

REMARKS

Further examination and reconsideration of the subject application, in view of the remarks below, are respectfully requested.

Status of Claims

Claims 9-20 are pending in the application.

Claim Rejections – 35 U.S.C. § 103

In the Office Action, claims 9 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smedberg (U.S. Patent No. 3,551,231) in view of Sands (U.S. Patent No. 3,390,035) and Andrusko (U.S. Patent No. 5,182,162). The errors in this rejection were pointed out in Applicants' prior response filed on February 1, 2005, and are incorporated herein by reference.

Now, we only ask that the Examiner specifically focus on the propriety of the combination of Smedberg with Sands. We note that Sands discloses several alternatives for applying its adhesive layer, but that disclosure does not make it obvious to change the method of Smedberg to one of Sands' other methods. This is particularly the case where, as here, Smedberg specifically teaches that an essential feature of its invention involves the use of an applicator roll:

An essential feature of the present process is the maintenance of a specifically determined pressure on the tufted structure while it is in contact with the applicator roll.

Col. 3, lines 49-51 (emphasis added). To apply the proper pressure, Smedberg developed an elaborate equation for determining the clearance between the hold-down rolls and the application roll. Col. 4, lines 16-32. Smedberg also teaches what will happen if appropriate pressure is not applied:

It has been discovered that if the appropriate pressure is not maintained on the tufted structure the resulting carpet will be deficient in either scrim bond strength or in fuzz resistance.

Col. 3, lines 52-55.

It is thus evident that the Smedberg invention is based on the use of an applicator roll. If one were to use a different method for applying the adhesive in Smedberg, the whole invention and the equation that he developed for applying the proper pressure would have been for naught.

Also, it should be noted that the Sands patent was filed almost two years before the Smedberg patent was filed. And both were filed by the same company, DuPont. Presumably, the alternative methods mentioned in Sands were known to DuPont at the time of the Smedberg patent application. Yet, no mention was made in the Smedberg patent of these alternative methods.

In light of these facts, persons skilled in the art would not have found it obvious to change the adhesive application method of Smedberg with another method. Such a modification would eliminate an essential feature of the Smedberg invention.

We have reviewed the *In re Fout* and *In re Siebentritt* decisions cited in the Office Action, but have found them to be inapplicable to the present case. These decisions did not address the question raised here, which is the appropriateness of modifying an essential feature of one of the applied references.

For the foregoing reasons, the applied references cannot be properly combined to arrive at the claimed invention. Accordingly, there's no *prima facie* case of obviousness, and the rejection should be withdrawn.

Claims 10, 12-14, 16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smedberg, Sands, and Andrusko further taken with Ballard. Claims 11 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smedberg, Sands, Andrusko, and Ballard further taken with Kerr. And claims 14 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smedberg, Sands, Andrusko, Ballard, and Kerr further taken with either WO 98/38375 or WO 98/38376. Since these rejections are all based on Smedberg, Sands, and Andrusko, the rejections are deficient at least for the same reasons mentioned above with respect to the rejection of claims 9 and 15.

In this connection with these rejections, the Examiner alleges in the final Office Action that "[i]t is believed that applicant agrees with the Office interpretation of these [secondary] references." We do not. There is simply no need to specifically address

them. As mentioned in the prior response, all of these rejections involve the same combination of Smedberg, Sands, and Andrusko. Since these references cannot be properly combined, all of the rejections based on them are deficient at least for the same reasons.


These additional rejections, therefore, should also be withdrawn.

Conclusion

In summary, Applicants believe the application to be in condition for allowance. Accordingly, the Examiner is respectfully requested to reconsider the rejection(s), remove all rejections, and pass the application to issuance.

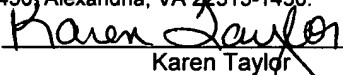
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June 21, 2005
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Karen Taylor

6/22/2005
Date